

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

In re ENERGY CONVERSION DEVICES, INC.	Chapter 11 Case No. 12-43166-TJT Judge Thomas J. Tucker (Jointly Administered)
ENERGY CONVERSION DEVICES LIQUIDATION TRUST, Plaintiff, -against- OVONYX, INC., TYLER LOWREY, MICRON TECHNOLOGY, INC., OVONYX MEMORY TECHNOLOGY, LLC, AND INTEL CORPORATION Defendants.	Adversary No.: 18-04320

**ORDER *DENYING*, WITHOUT PREJUDICE, *EX PARTE* MOTION BY
OVONYX, INC., MICRON TECHNOLOGY, INC., AND OVONYX
MEMORY TECHNOLOGY, LLC, CONCERNING HEARINGS ON
PENDING MOTIONS TO DISMISS,
AND ADJOURNING JANUARY 23, 2019 HEARING
ON THE PENDING MOTIONS TO DISMISS**

This adversary proceeding is before the Court on the *ex parte* motion, filed on the evening of January 17, 2019, by Ovonyx, Inc. (“Ovonyx”), Micron Technology, Inc. (“Micron”), and Ovonyx Memory Technology, LLC (“OMT”) (collectively, the “Movants”), for entry of an order sealing the audio recordings and transcripts of the hearings on the Defendants’ motions to dismiss, which are

presently scheduled to be held on January 23, 2019 at 1:30 p.m. (Docket # 140, the “Motion”).

The Court will deny this Motion, without prejudice, because it fails to demonstrate good cause for the extraordinary relief that it seeks. The Court is strongly disinclined to seal or shield from public access the audio recording of any hearing (or trial) held in this case (or in any other case), including the motions hearing currently scheduled for January 23, 2019. The courtroom of this Court, and hearings and trials held in the courtroom of this Court, are open to the public, and the Court’s normal practice is to post to the public docket each day audio recordings of every hearing and trial held, which are then freely available to the public. In this Court’s view, there is a strong presumption in favor of such public access. And the Motion is too general in its assertions to adequately demonstrate that the Court should take the extraordinary step¹ of eliminating public access to the courtroom, hearings, and audio of hearings in this case.²

¹ The undersigned judge does not recall ever granting the broad type of relief requested by this Motion in any case.

² Moreover, the Court likely will decide the pending motions to dismiss in writing, by means that include the filing of a written opinion, rather than by giving an oral bench opinion. It seems inconceivable that this Court would redact or seal from public access any part of its written opinion. The undersigned judge has never done such a thing. So it may be inevitable that some, and perhaps much, of what the Movants wish to conceal from the public record will become public in this case.

Nonetheless, the Court wishes to take a cautious approach to this subject. For that reason, the Court will give the Movants an opportunity to refile their Motion, under seal, and in such a new motion explain, *specifically and in detail* the reasons why they contend that the relief they seek is necessary. And the Court will give the other parties in this case, and the United States Trustee, an opportunity to respond to such a motion, if they wish. Allowing all of this will require an adjournment of the January 23, 2019 hearing.

Accordingly,

IT IS ORDERED that:

1. The Motion (Docket # 140) is denied, without prejudice.
2. The Movants may file a new motion seeking some or all of the relief they sought in the Motion, but they must do so, if at all, no later than January 25, 2019. Any such new motion must be filed under seal, with a redacted version of the motion to be filed on the public record in this case. The full, unredacted version of such motion must be served on all parties in this adversary proceeding, and on the United States Trustee. Such motion may not be filed on an *ex parte* basis, but rather must be filed and served with a **7-day** notice. (The Court finds good cause to shorten the normal 14-day notice period).

3. The hearing on the pending motions to dismiss (Docket ## 38, 43, 46, and 58), currently scheduled for January 23, 2019 at 1:30 p.m., is adjourned to **February 20, 2019 at 1:30 p.m.**

Signed on January 18, 2019



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge